

RULE 8.257. GENERAL MAGISTRATES

(a) **Appointment.** Judges of the circuit court may appoint as many general magistrates from among the members of The Florida Bar in the circuit as the judges find necessary, and the general magistrates shall continue in office until removed by the court. The order of appointment shall be recorded. Every person appointed as a general magistrate shall take the oath required of officers by the Constitution and the oath shall be recorded before the magistrate discharges any duties of that office.

(b) **Referral.**

(1) **Consent.** No matter shall be heard by a general magistrate without an appropriate order of referral and the consent to the referral of all parties. Consent, as defined in this rule, to a specific referral, once given, cannot be withdrawn without good cause shown before the hearing on the merits of the matter referred. Consent may be express or implied in accordance with the requirements of this rule.

(2) **Objection.** A written objection to the referral to a general magistrate must be filed within 10 days of the service of the order of referral. If the time set for the hearing is less than 10 days after service of the order of referral, the objection must be filed before commencement of the hearing. Failure to file a written objection within the applicable time period is deemed to be consent to the order of referral.

(3) **Order.**

(A) The order of referral shall contain the following language in bold type:

A REFERRAL TO A GENERAL MAGISTRATE REQUIRES THE CONSENT OF ALL PARTIES. YOU ARE ENTITLED TO HAVE THIS MATTER HEARD BEFORE A JUDGE. IF YOU DO NOT WANT TO HAVE THIS MATTER HEARD BEFORE THE GENERAL MAGISTRATE, YOU MUST FILE A WRITTEN OBJECTION TO THE REFERRAL WITHIN 10 DAYS OF THE TIME OF SERVICE OF THIS ORDER. IF THE TIME SET FOR THE HEARING IS LESS THAN 10 DAYS AFTER THE SERVICE OF THIS ORDER, THE OBJECTION MUST BE MADE BEFORE THE HEARING. FAILURE TO

FILE A WRITTEN OBJECTION WITHIN THE APPLICABLE TIME PERIOD IS DEEMED TO BE A CONSENT TO THE REFERRAL.

REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE SHALL BE BY EXCEPTIONS AS PROVIDED IN FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). A RECORD, WHICH INCLUDES A TRANSCRIPT OF PROCEEDINGS, ELECTRONIC RECORDING OF PROCEEDINGS, OR STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS, WILL BE REQUIRED TO SUPPORT THE EXCEPTIONS.

(B) The order of referral shall state with specificity the matter or matters being referred. The order of referral shall also state whether electronic recording or a court reporter is provided by the court.

(4) **Setting Hearing.** When a referral is made to a general magistrate, any party or the general magistrate may set the action for hearing.

(c) **General Powers and Duties.** Every general magistrate shall perform all of the duties that pertain to the office according to the practice in chancery and rules of court and under the direction of the court. A general magistrate shall be empowered to administer oaths and conduct hearings, which may include the taking of evidence. All grounds for disqualification of a judge shall apply to general magistrates.

(d) **Hearings.**

(1) The general magistrate shall assign a time and place for proceedings as soon as reasonably possible after the referral is made and give notice to each of the parties either directly or by directing counsel to file and serve a notice of hearing. If any party fails to appear, the general magistrate may proceed ex parte or may adjourn the proceeding to a future day, giving notice of the adjournment to the absent party. The general magistrate shall proceed with reasonable diligence in every referral and with the least delay practicable. Any party may apply to the court for an order to the general magistrate to speed the proceedings and to make the report and to certify to the court the reason for any delay.

(2) The general magistrate shall take testimony and establish a record which may be by electronic means as provided by Florida Rule of Judicial Administration 2.535(g)(3) or by a court reporter. The parties may not waive this requirement.

(3) The general magistrate shall have authority to examine under oath the parties and all witnesses on all matters contained in the referral, to require production of all books, papers, writings, vouchers, and other documents applicable to it, and to examine on oath orally all witnesses produced by the parties. The general magistrate may take all actions concerning evidence that can be taken by the circuit court and in the same manner. The general magistrate shall have the same powers as a circuit judge to use communications equipment as defined and regulated by ~~Florida Rule of Judicial Administration 2.530~~these rules.

(4) The notice or order setting a matter for hearing shall state whether electronic recording or a court reporter is provided by the court. If the court provides electronic recording, the notice shall also state that any party may provide a court reporter at that party's expense, subject to the court's approval.

(e) Report.

(1) The general magistrate shall file a report that includes findings of fact, conclusions of law, and recommendations and serve copies on all parties. If a court reporter was present, the report shall contain the name and address of the reporter.

(2) The report and recommendations shall contain the following language in bold type:

SHOULD YOU WISH TO SEEK REVIEW OF THE REPORT AND RECOMMENDATIONS MADE BY THE GENERAL MAGISTRATE, YOU MUST FILE EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS IN ACCORDANCE WITH FLORIDA RULE OF JUVENILE PROCEDURE 8.257(f). YOU WILL BE REQUIRED TO PROVIDE THE COURT WITH A RECORD SUFFICIENT TO SUPPORT YOUR EXCEPTIONS WITHIN 10 DAYS OF SERVICE OF THE REPORT AND RECOMMENDATIONS OR YOUR EXCEPTIONS WILL BE DENIED. A RECORD ORDINARILY INCLUDES A TRANSCRIPT OF PROCEEDINGS, ELECTRONIC

RECORDING OF PROCEEDINGS, OR STIPULATION BY THE PARTIES OF THE EVIDENCE CONSIDERED BY THE GENERAL MAGISTRATE AT THE PROCEEDINGS. THE PERSON SEEKING REVIEW MUST HAVE THE TRANSCRIPT PREPARED FOR THE COURT'S REVIEW.

(f) **Exceptions.** The parties may file exceptions to the report within 10 days from the time it is served on them. Any party may file cross-exceptions within 5 days from the service of the exceptions. However, the filing of cross-exceptions shall not delay the hearing on the exceptions unless good cause is shown. If no exceptions are filed within that period, the court shall take appropriate action on the report. If exceptions are filed, they shall be heard on reasonable notice by either party or the court.

(g) **Record.**

(1) For the purpose of the hearing on exceptions, a record, substantially in conformity with this rule, shall be provided to the court by the party seeking review. The record shall consist of

(A) the court file;

(B) all depositions and evidence presented to the general magistrate; and

(C) the transcript of the proceedings, electronic recording of the proceedings, or stipulation by the parties of the evidence considered by the general magistrate at the proceedings.

(2) The transcript of the proceedings, electronic recording of the proceedings, or stipulation by the parties of the evidence considered by the general magistrate at the proceedings, if any, shall be delivered to the judge and provided to all other parties not less than 48 hours before the hearing on exceptions.

(3) If less than a full transcript or electronic recording of the proceedings taken before the general magistrate is ordered prepared by the excepting party, that party shall promptly file a notice setting forth the portions of the transcript or electronic recording that have been ordered. The responding party shall be permitted to designate any additional portions of the transcript or electronic recording necessary to the adjudication of the issues raised in the exceptions or cross-exceptions.

(4) The cost of the original and all copies of the transcript or electronic recording of the proceedings shall be borne initially by the party seeking review. Should any portion of the transcript or electronic recording be required as a result of a designation filed by the responding party, the party making the designation shall bear the initial cost of the additional transcript or electronic recording.

(h) Prohibition on Magistrate Presiding over Certain Hearings.

Notwithstanding the provisions of this rule, a general magistrate shall not preside over a shelter hearing under section 39.402, Florida Statutes, an adjudicatory hearing under section 39.507, Florida Statutes, or an adjudicatory hearing under section 39.809, Florida Statutes.